

July 01, 2022

CLERK, U.S. DISTRICT COURT  
WESTERN DISTRICT OF TEXAS**IN THE UNITED DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
EL PASO DIVISION**BY: Michael Trujillo  
DEPUTY**DELIRIS MONTANEZ**  
**Plaintiff****No. EP-22-CV-0139-DCG-MAT****v.****Chris Magnus**  
**Commissioner**  
**United States Customs and Border Protection**  
**Defendant****David C. Guaderrama**  
**United States District Judge****Date: July 1, 2022****APPEAL TO ORDER DENYING MOTION TO PROCEED IN *FORMA PAUPERIS* AND  
MOTION FOR APPOINTMENT OF COUNSEL**

COMES NOW, Complainant, through *pro se* representation, as no attorney wants to go against our corrupted Federal Public Agencies, hereby moves to request the United States District Court for reconsideration of her civil rights pursuant to 28 U.S.C 636 (b) (1) (A) and Appendix C of the Local Rules (EFC No. 2, p.1).

28 U.S.C 636 (b) (1) (A) states, “A judge may designate a magistrate judge to hear and determine any pretrial matter pending before the court... A judge of the court may reconsider any pretrial matter under this subparagraph (A) where it has been shown that the magistrate judge’s order is clearly erroneous or contrary to law”.

28 U.S.C 636 (b) (1) (C) states, “A judge of the court may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge. The judge may also receive further evidence or recommit the matter to the magistrate judge with instructions”.

The magistrate judge was very good at taking notice of the Complainant’s **earned benefits** after dedicating her whole life to our government, but he fail on mentioning to this court the astronomical expenses she incurs on a month to month basis on her monthly financial

responsibilities and in an attempt to gain self-employment and be a productive constituent to our community. The \$25,000 mentioned by the magistrate judge available in her checking/savings account is diminishing rapidly as the months pass by for the lack of accountability on these public agencies by the own government who she dedicated her entire life to serve and protect. In addition to, the Complainant doesn't have \$350,000 in her TSP. She invested all of her TSP funds in a resident for her parents as her mom is handicapped. That account has less than \$2,000, if much, just to keep it open.

The Complainant has been getting deeper and deeper in debt in an attempt to once and for all hold her former agency accountable on her various credible discrimination cases. It is not true that the Complainant has funds to retain another counsel after spending almost \$25,000 with her former disbarred counsel by the State Bar of Texas for proved misconduct. If these injustices continue, she won't either be able to adequately provide for herself nor her future dependents, her parents, as they are relocating from Puerto Rico with her on 21 September 2022 to provide assistance and moral and emotional support. They have decided to leave their entire life back home to care for the Complainant after matters that could have been avoided if the administrative process would not have failed her like it did for fulfilling her duties and responsibilities as per her job description.

Under the & 1983 framework, the court should appoint counsel as there are "exceptional circumstances" beyond a reasonable doubt after applying the four factors mentioned by the magistrate judge in his denied motion response.

The Complainant earned her master's degree in management on 2003 not on jurisprudence. On 2018, the complainant was diagnosed by several competent medical professionals with severe and chronic post-traumatic stress "disorder". The fact that the complainant has earned a higher level of education is irrelevant and null. Anyone with some common sense and research capability can generate a document; totally different than

representing oneself in a court of law in where the only intent and goal this corrupted agency has displayed and attempted to do for the last few years is to cover misconduct and wrongdoing at all cost from their management officials by slandering, libeling and destroying the Complaint, other victims and witness character.

At the present time, the Complainant has another discrimination case before the Equal Employment Opportunity Commission at the Denver Field Office, **EEOC No. 450-2021-00397X, Agency No. HS-CBP-01248-2020**. It will be almost impossible for the Complainant to: (1) properly represent herself for her lack of knowledge on legal representation procedures to include terminology, knowledge of prior law cases; (2) lack of personal funds unless the Complainant gets more into debt which will aggravate her medical condition; and (3) adequate time to prepare and represent herself not only on these two pending cases, which the agency has dragged for years totally disregarding the medical condition they themselves caused on the Complainant but the fact she was forced to retire for lack of support and empathy from her management officials after becoming a victim of a Federal Color Law Crime violation by one of the same management officials in all of her discrimination complaints against the agency.

The Complainant's has faith and believe that the justice system will prevail on her behalf, as the agency **should not** be able nor be allowed to lie nor commit perjury under oath in front of a competent jury. Her resiliency and inner strength to continue to fight for her rights and others by setting a precedence to save other's lives allows her to stay in the fight against injustices that have been allowed by our own government elected officials.

It is extremely sad and disheartening that the magistrate judge gives an opinion on the disposition of a case he has no knowledge of nor have witness what the Complainant has witness

under the administration almost pushing her to the edge of giving up. The Complainant refuses to be another statistic and her slogan is “American Stigma smasher” after the four (4) oaths she pledged for her country during her entire careers within our government.

It is the Complainant’s belief that the fact that she ran for an elected office in the US Congressional TX-16 2022 primary elections against the incumbent and the fact that the incumbent’s spouse is a magistrate within the jurisdiction of this district court might also have something to do with the magistrate judge’s decision.

In a civil case, a federal court has considerable discretion in determining whether to appoint counsel. Salmon, 911 F.2d at 1166. On the Complainant’s defense, she has sufficient justifiable reasons for this court to reconsider her request to proceed in *Forma Pauperis* and for Appointment of Counsel.

There is a high probability of significant and irreversible harm to the Complainant if this appeal is not granted as the Complainant lacks the legal knowledge to represent herself. Not only she has been deemed 100% permanently and totally medically disabled per the Veterans Affairs Office but the Department of Defense has engaged in medical negligence and malpractice in processing her medical official documents back on March 2018 when medical professionals recommended the Department of the Army mental health medical services. Again, another disservice service member is our own government.

Respectfully submitted,



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